

REMARKS

In the Office Action, the Examining Attorney rejected claim 4 under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner also rejected claims 1, 5-6, 8-13, 15 and 16 under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 5,311,293 to MacFarlane. Claims 2-4 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over MacFarlane. Finally, claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over MacFarlane in view of U.S. Patent No. 6,065,969 to Rifkin. Additionally, the Examiner requested the submission of a new declaration.

A new declaration is enclosed with this amendment that identifies the citizenship of the inventor. Claim 4 has been amended such that it now depends from claim 3 (which recites “a multimedia presentation”) rather than claim 2. Accordingly, Applicant respectfully requests that the Examiner withdraw the objection to the declaration and the rejection for claim 4 under 35 U.S.C. §112.

In the Office Action, the Examiner has principally relied upon the ‘293 patent to MacFarlane in rejecting the various claims. However, Applicant submits that MacFarlane does not teach or discuss Applicant’s invention.

MacFarlane discusses a method and instruments for identifying categories of *skin coloration* for compatibility with colors of clothes, makeup, etc. See Col 1, ln. 18-20. In fact, it is the express goal of MacFarlane to provide a color selection system in which a person’s skin color is the exclusive determinative factor in color compatibility. See Col. 2, ln. 29-31. More specifically, MacFarlane states that other prior art methods have “wrongly relied upon eye color, color of hair and even racial background to assign color categories to the person.” See Col. 1, ln.

Serial No. 09/910,520

Reply to Office Action of December 17, 2003

30-33. Therefore, MacFarlane not only ignores but also expressly teaches away from the concept of using other physical characteristics either alone or in combination as a means for determining color/fashion compatibility. By focusing exclusively on skin color, MacFarlane ignores other physical characteristics that may affect not only the color of the fashions that a person wears, but also the style of the person's fashions.

Accordingly, in view of the above amendments and remarks, Applicant submits that the application is now in proper form for allowance. Such action is respectfully requested.

Respectfully submitted,



Mark D. Schneider
Registration No. 43,906
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009-5394
(248) 647-6000

Attorney for Applicant

MDS/gs
Enclosure

GS-W:\Word Processing\mds\FSP10002-amd.doc